HIGH COURT OF UTTARANCHAL AT NAINITAL

C-482 No. 877 of 2006

1. Smt. Radha Rani, W/o Prem Dutt Bahuguna,
2. Ram Lal Bahuguna, S/o Prem Dutt Bahuguna,

Applicant No. 1 and 2, R/o Lavadhar, P.S.-Chamba, District-Tehri Garhwal.

2. Rajendra Bahuguna, S/o Prem Dutt Bahuguna, at present R/o through Sanjay Madiyan, House No. 20, Sugar Meal Colony, Rohtak, Haryana.
4. Chetan Bahuguna, S/o Bachan Dev, at present posted as Hawaldar, 40th Battalions, P.A.C. Haridwar, District-Haridwar.

.....Applicants.

Vs.

1. State of Uttaranchal.
2. Smt. Manju, W/o Rajendra Bahuguna, D/o late Yogendra Prashad Bhatt, R/o House No. 89, 40th Battalions (Vahini), P.A.C. Haridwar, District-Haridwar. .....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri Sanjeev Singh, counsel for the applicants and A.G.A. for the State.

2. By the present application filed under Section 482 of the Code of Criminal Procedure, applicant has sought following relief:

> "(a) Quash the summoning order dated 19.8.06, passed by 1st Additional Chief Judicial Magistrate, Haridwar, in Complaint Case No.

742/16, title Smt. Manju Vs. Rajendra Bahuguna and others under Section 498-A, 323, 504, 506 I.P.C. and Section 3/4 D.P. Act, P.S. – Ranipur, Haridwar.

(b) Quash the entire criminal proceedings against the applicants pertaining to Complaint Case No. 742/06, title Smt. Manju Vs. Rajendra Bahuguna and others under Section 498-A, 323, 504, 506 IPC, and Section 3/4 D.P. Act, PS-Ranipur, Haridwar pending in the Court of 1st Additional Chief Judicial Magistrate, Haridwar.

It is further prayed that this Hon'ble Court may most graciously be pleased to stay further proceedings in Complaint Case No. 742/06 title Smt. Manju V/s Rajendra Bahuguna and others, Under section 498-A, 323, 504, 506 IPC, and Section 3/4 D.P. Act, PS-Ranipur, Haridwar pending in the Court of Ist Additional Chief Judicial Magistrate, Haridwar, till the pendency of this criminal misc. application."

3. Briefly stated, on 22.06.2006, a complaint was filed by the respondent no. 2 in the Court of Ist Additional Chief Judicial Magistrate Haridwar alleging therein that the marriage of respondent no. 2 was solemnized on 09.12.2002 with Rajendra Bahuguna-applicant no. 3 and the dowry was also given.

4. In the complaint made by the respondent no. 2 on 22.06.2006, it has been stated that on 10.12.2005 applicants came to the house of the respondent no. 2 and demanded money and also beaten her. Thereafter, the respondent no. 2 approached the concerned police station and tried to get the F.I.R. lodged against the applicants, but the same was not lodged.

5. Counsel for the applicants have submitted that the opposite party no. 2 has filed the alleged complaint making false allegations against the applicants under Section 498-A, 323, 504, 506 IPC read with Section ¾ of the Dowry Prohibition Act and only to harass the applicant this complaint has been filed.

6. After recording the statement under Sections 200 and 202 of the Code of Criminal Procedure, the Chief Judicial Magistrate passed the summoning order against the applicant and his family members on 19.08.2006.

7. In Medchl Chemicals and Pharma (P) Ltd. v. Biological E. Ltd. and others (2003) 3 SCC 269, the Apex Court has been observed as under:

> *"19. Considering the factual aspect of the matter, we unhesitatingly state, however, that the issue involved in the matter under consideration is not a case in which the criminal trial should have been short-circuited. We, thus, without expressing any opinion on the merits of the case allow the appeal and set aside the impugned order of*

the high Court and restore the complaint. The learned trial Magistrate shall proceed with the complaint and dispose of the same in accordance with the law with utmost expedition. Be it clarified however that observations as above in this judgment be not taken as an expression of any opinion of ours."

8. Since it is complaint case, therefore, it is relevant to quote following portion of ***Smt. Husna and others v. State of U.P. and others [2006 (56) ACC 659]:***

"7. The petition is finally disposed of with the direction to the petitioners to appear before the Court concerned within 15 days of passing of this order and if they do so, the Court will permit them to file appearance bonds to his satisfaction for their regular appearance in the case."

9. In view of the aforesaid the applicants are directed to present themselves before the Chief Judicial Magistrate and ensure their presence by furnishing personal bonds to the satisfaction of the Magistrate concerned for their regular appearance in the case.

12. Subject to the observations made above, application under Section 482 Cr.P.C. is dismissed.

(Rajesh Tandon, J.)

15th December, 2006
Rathour